

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KATSUJI MURAMATSU,
NOBUYUKI KAMEYAMA,
and MITSUYOSHI MOCHIDA

Appeal No. 1997-2215
Application 08/332,058

ON BRIEF

Before CALVERT, COHEN, and PATE, Administrative Patent Judges.
PATE, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-15 and 18. These are the only claims remaining in the application.

The claimed subject matter is directed to a camera which can take full-size negative photographs or alternatively takes

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so- called panoramic photographs. In a panoramic photograph, a portion of the film is masked so that the resulting photograph has a different aspect ratio than a normal, full-framed photograph. The claimed camera has an actuation linkage for actuating the aperture masking plates in which a switching member and the linkage move by an amount exceeding the amount necessary to move the aperture masking plates into panoramic position.

The claimed subject matter can be further understood with reference to the appealed claims appended to appellants' brief. The references of record relied upon as evidence of obviousness are:

Tanaka 1993	5,258,790	Nov. 2,
Ohshita 1994	5,315,331	May 24,
Goddard 1994	5,353,076	Oct. 4,
Alligood 1995	5,400,100	Mar. 21,
		(filed Jan. 14, 1994)
Kameyama et al. (Kameyama) 1995	5,410,381	Apr. 25,
		(filed Apr. June 11, 1993)

THE REJECTIONS

Claims 1, 2 and 18 stand rejected under 35 U.S.C. §

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102(a) as clearly anticipated by Tanaka or Goddard.

Claims 1, 2 and 18 stand rejected under 35 U.S.C. §

102(e) as clearly anticipated by Alligood.

Claims 3, 4, 6 and 8-14 stand rejected under 35 U.S.C. §

103 as unpatentable over Alligood or Goddard or Tanaka in view
of Kameyama.

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Claims 5 and 7 stand rejected under 35 U.S.C. § 103 as unpatentable over Tanaka or Alligood in view of Kameyama and further in view of Goddard.

Claim 15 stands rejected under 35 U.S.C. § 103 as unpatentable over Alligood or Goddard or Tanaka in view of Ohshita.

OPINION

We have carefully reviewed the rejections on appeal in light of the arguments of the appellants and the examiner. As a result of this review we have reached the determination that the applied prior art is not anticipatory of claims 1, 2 and 18, nor does the prior art establish the prima facie obviousness of claims 3-15. Our reasons follow.

At the outset, we must note that the examiner has never made factual findings with respect to the § 102 rejection by reading the references in relation to the claims and establishing correspondence between the claimed subject matter and the reference structure. We sympathize with appellants and their difficulty in determining exactly how Alligood, Goddard or Tanaka

are, in the examiner's view, anticipatory of the subject matter of claims 1 or 18. It is the duty of the Patent and Trademark Office to make clear factual findings.

Turning to claim 18 which is broader in some respects than the other independent claim, claim 1, we note that claim 18 requires stopper members for positioning the exposure aperture masking plates in the panoramic position. The next clause of claim 18 requires that the stopper members contact the exposure aperture plates. Even a cursory review of Alligood and Goddard establishes that there is no stopper structure for contacting the exposure aperture masking plates when these plates are in their panoramic position. The exposure aperture masking plates of Alligood and Goddard when in panoramic position are suspended free of any contact by a structure which could be regarded as a stopper member. Accordingly, the rejections of claim 18 under 35 U.S.C. §§ 102(a) and (e) based on Goddard or Alligood, respectively, are reversed.

Turning to the rejection of claim 18 based on the Tanaka reference, we find it necessary to construe the switching

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means limitation of the claim under 35 U.S.C. § 112, sixth paragraph. According to appellants' specification the switching means is the flexible elongated arm 82c of the crank lever 82 and slidable member 80 which bears on the flexible crank arm via projection 80b and pin 82a. Accordingly, we construe the switching means of claim 18 to be two pivoting levers one of which has built-in flexibility or resiliency and the equivalents thereof.

Turning to a consideration of Tanaka, the specification makes clear that it is lens barrel 8 that moves aperture masking plates 2 and 4 into the panoramic position by translation against the plates which pivot about axes 2a and 4a as pins 12 and 14 are cammed along the surface of projections 22 and 24. The aperture masking plates are held in panoramic position by pins 12 and 14. Thus, it can be seen that the member that moves both of the exposure aperture masking plates simultaneously toward the panoramic size position is the lens barrel and not two pivoting levers as we have construed claim 18 to require. Consequently, claim 18 is not anticipated by the Tanaka reference.

Turning to the rejection of claim 1 under 35 U.S.C. §§ 102(a) and (e) based on the Goddard and Alligood references, we again point out that the examiner has not made findings of fact specifically pointing out which features of Goddard and Alligood are said to anticipate the various members called for in claim 1. Both of these references show aperture masking plates 17, 19 as part of an integral, one piece system with pivots 21 and 23 connected by rigid links. In Goddard, two living hinges 27 and 29 permit the masking plates to move from one overcenter position to the other. In Alligood, a diamond-shaped flexible hinge is provided to allow movement from one overcenter position to the other. The masking blade assemblage 15 of either reference simply does not comprise enough members to satisfy the claim 1 requirements of an urging member, stopper members, an operation member, a switching member and a connecting member. We note that in the examiner's analysis of these references several of the structures of the blade assembly 15 are relied on duplicatively to be the required members. The examiner's analysis might have some validity if these various features of

claim 1 were described functionally. In our view, however, claim 1 calls for members, i.e., structures, to provide for these various functions. As such, Goddard and Alligood do not anticipate claim 1.

Furthermore, appellants' functional language of claim 1 presupposes that the function will be performed by the claimed apparatus during normal or routine operation. Therefore, the examiner's reliance on an operator abusing the actuating extension link 55 of Alligood or Goddard by forcing it past its normal negative masking position, cannot be said to provide a proper factual basis for an anticipation rejection.

Turning to a consideration of Tanaka, we note that Tanaka discloses urging members 2b and 4b, stopper member wedges 22, 24 and an operating member 20 which is translated to select one of said full size or panoramic size positions. The elastic arms 20a and 20b of Tanaka also serve as switching members with resilient portions, i.e., the resilient arms. However, reading Tanaka in this manner, means that Tanaka does not have a connecting member connecting the switching member to the exposure aperture masking plates. In Tanaka the lens

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barrel 8 which moves the exposure masking plates does not connect the switching members to the exposure aperture masking plates. Consequently, Tanaka does not anticipate claim 1.

We have carefully considered the other cited references, but it is our determination that the combined teachings of these references and the already discussed Alligood, Goddard and Tanaka

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references would not have rendered the subject matter of any
claims on appeal prima facie obvious.

For these reasons we reverse the rejections of all claims
on appeal.

REVERSED

IAN A. CALVERT)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
IRWIN CHARLES COHEN)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
WILLIAM F. PATE, III)	
Administrative Patent Judge)	

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